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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/090,520	03/04/2002	Gary Odom		6595
40600	7590	10/27/2006	EXAMINER	
GARY ODOM 123 NW 12TH AVE., #1332 PORTLAND, OR 97209			CERVETTI, DAVID GARCIA	
		ART UNIT	PAPER NUMBER	
			2136	

DATE MAILED: 10/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/090,520	ODOM, GARY
	Examiner David G. Cervetti	Art Unit 2136

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 11 August 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 27-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 27-49 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 17 January 2006 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

1. Applicant's arguments filed August 11, 2006, have been fully considered but they are not persuasive.
2. Claims 27-49 are pending and have been examined. Claims 1-26 have been cancelled.

Response to Amendment

3. The rejection of claims 27 and 42 under 35 U.S.C. 112, second paragraph, is withdrawn.
4. The following prior art has been used: Matchett et al. (US Patent 5,229,764, hereinafter Matchett).
5. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.
6. Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.
7. It is respectfully submitted that Applicant's argument regarding the "receiving input from at least one of a plurality of user selectable input devices" does not patentably differentiate the prior art from the instant application. Examiner points Applicant to the specification where it appears that the signature is generated (or may

be) using a combination of inputs from more than one input device (pp. 6-7). **The arguments are not persuasive.**

8. Regarding Applicant's arguments, they attempt to differentiate between **users selecting**, as oppose to an administrator or manager or a programmed system (see Remarks, claim 27). Matchett clearly lets users select from a plurality of input devices to authenticate. Furthermore, the fact that the claims state from at least one, perfectly read on Matchett authenticating a user through a biometric reader (voice input data, column 6). **The arguments are not persuasive.**

9. Regarding claim 42, Matchett incrementally and continuously authenticates a user, accumulating user input and comparing it to previously stored signature (columns 5-6, 11). **The arguments are not persuasive.**

10. Regarding claims 49 et al., a user editing (as updating) his biometric data does not only mean that the user access the biometric data (an image of his retina, or fingerprint) and modifies it to fit a purpose, edit also may comprise replace, bring up to date, etc. **The arguments are not persuasive.**

Claim Rejections - 35 USC § 112

11. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

12. Claim 42 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claim is generally indefinite, failing to conform with current U.S. practice. It is replete with grammatical and idiomatic errors, i.e. "wherein said signature divisible into portions, wherein said keys associating portions sequentially either integrally or by reference" it is not clear what this is supposed to mean.

Claim Rejections - 35 USC § 102

13. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

14. **Claims 42-49 are rejected under 35 U.S.C. 102(b) as being anticipated by Matchett.**

Regarding claim 42, Matchett teaches a computer-implemented method for incrementally authenticating a signature while receiving user input comprising (column 4, lines 30-67, column 5, lines 1-68): receiving a first portion of user input data; accumulating keys based upon matching correspondingly key data to said first portion of user input data, wherein a key comprises at least in part a portion of a previously stored signature, wherein said signature divisible into portions, wherein said keys associating portions sequentially either integrally or by reference (column 11, lines 30-

68); subsequently, iteratively receiving a plurality of portions of user input data and performing a corresponding authentication step for each portion, wherein, upon receiving each subsequent portion after said first portion, discarding from further processing previously accumulated keys based upon failure in matching respective key data to said user input data portion; and whereby continuing said iterative process until completing authentication by matching said last key to corresponding said user input data portion, or by process of elimination determining authentication impossible (column 11, lines 30-68).

Regarding claim 43, Matchett teaches wherein accepting said match within a designated tolerance of inexactness (Abstract, column 6, lines 1-68).

Regarding claim 44, Matchett teaches wherein accessing at least one key by reference from another key (Abstract, column 6, lines 1-68).

Regarding claim 45, Matchett teaches wherein said first portion comprises input from a plurality of devices (column 6, lines 1-68).

Regarding claim 46, Matchett teaches a computer-implemented method for storing the signatures of a plurality of users comprising (column 4, lines 30-67, column 5, lines 1-68): recording a plurality of signatures comprising data of a plurality of transmission types and signal types (column 6, lines 1-68), wherein a transmission type comprises indicia of a user-selected input device among a plurality of user-selectable devices (column 6, lines 1-68), wherein a signal type comprises a category, among a plurality of possible categories, of measurable variable input associated with at least one user input device (column 6, lines 1-68), and wherein at least two signals types are

associated with at least one single input device (column 6, lines 1-68); and partitioning said signature data by transmission type and by signal type (column 9, lines 10-68).

Regarding claim 48, Matchett teaches a computer-implemented method for creating a signature comprising (column 4, lines 30-67, column 5, lines 1-68): recording user input of a plurality of signal types from at least one user-selected device among a plurality of user-selectable devices (column 6, lines 1-68), wherein a signal type comprises a category, among a plurality of possible categories, of measurable variable input associated with at least one user input device (column 6, lines 1-68); receiving user selection among those signal types recorded (column 5, lines 1-68), whereby receiving user selection of at least one less signal type than recorded for said device (column 6, lines 1-68); creating a signature comprising at least in part said user-selected signal types (column 6, lines 1-68).

Regarding claim 47, Matchett teaches storing a signature at least in part by partitioning said signature into portions by signal type, such that at least one portion references another portion of said signature (column 9, lines 10-68).

15. Claims 27-32, 35-39, and 41 are rejected under 35 U.S.C. 102(b) as being anticipated by Hillhouse (US Patent 6,052,468).

Regarding claim 27, Hillhouse teaches a computer-implemented method for creating a signature for subsequent authentication comprising (col. 7, lines 1-27): indicating to a user commencement of signature input recording (col. 7, lines 1-27); recording user input signals by type from at least one user-selected device among a plurality of selectable user input devices (col. 7, lines 28-52), wherein a signal

comprises a set of related software-recognizable data of the same type received from at least one input device (col. 7, lines 1-67), and wherein at least one user-selectable input device affords recording a plurality of signal types, and wherein a signal type comprises a category, among a plurality of possible categories, of measurable variable input associated with at least one user-selectable input device (col. 7, lines 1-67); terminating said recording (col. 7, lines 1-67); creating a signature based at least in part upon said recording (col. 7, lines 1-67); and storing said signature (col. 7, lines 1-67, col. 8, lines 1-67).

Regarding claim 35, Hillhouse teaches a computer-implemented method for creating a signature for subsequent authentication comprising (col. 7, lines 1-27): receiving user selection of at least one signal type among a plurality of selectable signal types (col. 7, lines 1-27); recording input data of at least one signal type from at least one user-selected input device among a plurality of selectable user input devices (col. 7, lines 1-67), wherein a signal type comprises a category, among a plurality of possible categories, of measurable variable input associated with at least one user-selectable input device (col. 7, lines 1-67), and wherein at least one user-selectable input device affords recording a plurality of signal types (col. 7, lines 1-67); and creating a signature comprising at least in part at least a portion of said input data of said user-selected signal types (col. 7, lines 1-67); and storing said signature (col. 7, lines 1-67).

Regarding claims 28 and 36, Hillhouse teaches wherein said recording comprises signals from a plurality of user-selected devices (col. 7, lines 1-67).

Regarding claim 29, Hillhouse teaches receiving user selection of at least one signal type from a plurality of signal types associated with at least one user input device (col. 7, lines 1-67).

Regarding claim 30, Hillhouse teaches passively terminating authentication comparison of a subsequent signature submission to said recording, thereby authenticating said subsequent signature; and wherein said signature comprises at least in part signal input that is user-controllable in duration (col. 8, lines 1-67).

Regarding claims 31 and 39, Hillhouse teaches comparing a subsequent signature submission to said recording, and accepting said comparison within a predetermined degree / designated tolerance of inexactness, thereby authenticating said subsequent signature (col. 8, lines 1-67).

Regarding claim 32, Hillhouse teaches wherein said predetermined degree comprises a user-designated tolerance (col. 8, lines 1-43).

Regarding claim 37, Hillhouse teaches that said recording precedes said receiving signal type selection (col. 8, lines 1-67).

Regarding claim 38, Hillhouse teaches wherein at least one said signal type comprises input from a plurality of devices (col. 8, lines 1-67).

Regarding claim 41, Hillhouse teaches wherein said recording comprises a plurality of user-selected signal types (col. 7, lines 1-67).

Claim Rejections - 35 USC § 103

16. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

17. **Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matchett.**

Regarding claim 49, Matchett does not expressly disclose editing or updating the signature or a part of the signature. However, Matchett teaches signatures that are not entirely comprised of text-character codes (Summary, column 3) and Examiner takes Official Notice that editing/updating data was conventional and well known at the time the invention was made (admitted by Applicant). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to allow users to edit/update the biometric information of the system of Matchett.

18. **Claims 33-34 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hillhouse.**

Regarding claim 33-34 and 40, Hillhouse does not expressly disclose editing or updating the signature or a part of the signature. However, Hillhouse teaches signatures that are not entirely comprised of text-character codes (Summary, columns 7-8) and Examiner takes Official Notice that editing/updating data was conventional and well known at the time the invention was made (admitted by Applicant). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to allow users to edit/update the biometric information of the system of Hillhouse.

Conclusion

19. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

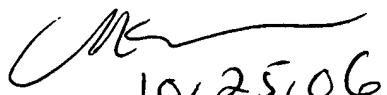
20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David G. Cervetti whose telephone number is (571) 272-5861. The examiner can normally be reached on Monday-Friday 7:00 am - 5:00 pm, off on Wednesday.

21. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nasser G. Moazzami can be reached on (571) 272-4195. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

22. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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10/25/06